

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA)
v.)) CASE NO. DNCW3:06CR125-01
DWAYNE A. BENNETT,)) (Financial Litigation Unit)
and)
MCEACHIN & GEE, P.C.,)
Garnishee.)

ORDER OF CONTINUING GARNISHMENT

THIS MATTER is before the Court on the Answer of McEachin & Gee, P.C., as Garnishee.

On December 11, 2007, the Honorable Frank D. Whitney sentenced Defendant to twenty-four months incarceration for his conviction of Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371. Judgment in the criminal case was filed on January 2, 2008 (Docket No. 14). As part of that Judgment, Defendant was ordered to pay an assessment of \$100.00 and restitution of \$20,774.84 to the victims of the crime. *Id.*

On May 14, 2012, the Court entered a Writ of Continuing Garnishment ("Writ") (Docket No. 18) to Garnishee, McEachin & Gee, P.C. ("Garnishee"). The United States is entitled to a wage garnishment of up to 25% of net income and has satisfied the prerequisites set forth in 15 U.S.C. § 1673. Garnishee was served with the Writ on May 16, 2012. Defendant was served with the Writ on July 5, 2012, however, Defendant filed a request for hearing using forms provided by the United States on May 25, 2012 (Docket No. 21). The United States filed a response in opposition to Defendant's request for hearing on May 30, 2012 (Docket No. 22). Garnishee filed an Answer to the Writ on June 4, 2012 (Docket No. 23) stating that at the time of the service of the Writ,

Garnishee had in their custody, control or possession property or funds owned by Defendant, including non-exempt disposable earnings.

After careful consideration of Defendant's request for hearing, the Court finds that a hearing in this matter is neither necessary, nor is it appropriate pursuant to the provisions of 28 U.S.C. § 3202(d).

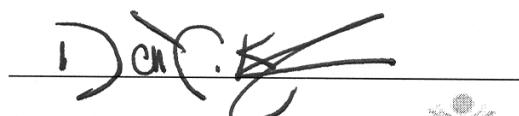
IT IS THEREFORE ORDERED that Defendant's request for hearing is DENIED.

IT IS FURTHER ORDERED that an Order of Continuing Garnishment is hereby ENTERED in the amount of \$16,919.88 computed through April 24, 2012. Garnishee will pay the United States 25% of Defendant's net earnings which remain after all deductions required by law have been withheld, and 100% of all 1099 payments, and Garnishee will continue said payments until the debt to the Plaintiff is paid in full, or until Garnishee no longer has custody, possession or control of any property belonging to Defendant, or until further Order of this Court.

Payments should be made payable to the United States Clerk of Court and mailed to the Clerk of the United States District Court, 401 West Trade Street, Charlotte, NC 28202. In order to ensure that each payment is credited properly, the following should be included on each check: Court Number DNCW3:06CR125-01.

Plaintiff will submit this debt to the Treasury for inclusion in the Treasury Offset Program. Under this program, any federal payment Defendant would normally receive may be offset and applied to this debt.

Signed: August 30, 2012



David C. Keesler
United States Magistrate Judge
